

GEORGIA STATE BOARD OF MASSAGE THERAPY
Board Meeting Minutes
Professional Licensing Boards
237 Coliseum Drive, Macon, GA
Friday, April 29, 2016 - 9:00 a.m.

The Georgia Board of Massage Therapy met on Friday, April 29, 2016. The following members were present:

Board Members Present

Craig Knowles, Board Chair
Jennifer Clay, Board Member
Pam Nichols, Board Member

Administrative Staff Present

Adrienne Price, Executive Director
Tamara Elliott, Board Support Specialist
Kathy Osier, Licensing Supervisor

Board Members Absent

Trisha Butler, Board Member

Attorney General's Office Present

Scott Forbes, Assistant Attorney General

Visitors Present

- 1) Anita Brown
- 2) Dwight Bunn

Call to Order

Mr. Knowles established that a quorum was present and called the meeting to order at 9:05a.m.

OPEN SESSION

Board Meeting Agenda

Ms. Clay motioned, Ms. Nichols seconded and the Board voted unanimously in favor of the motion to accept the agenda as presented.

Open Session Minutes:

1) March 4, 2016 Board Meeting Minutes

Ms. Clay motioned, Ms. Nichols seconded, and the Board voted unanimously in favor of the motion to approve the March 4, 2016 open session minutes as amended to correct the grammatical errors.

Licenses to Ratify: February 27, 2016 – April 22, 2016

Ms. Nichols motioned, Ms. Clay seconded, and the Board voted unanimously in favor of the motion to ratify the licenses by application and by reinstatement that were issued in accordance with Board Rules and Policies between board meetings.

Correspondence(s)

1) Kimberly Murray – Temporary Request to Practice Massage Therapy

Ms. Clay motioned, Ms. Nichols seconded, and the Board voted unanimously in favor of the motion to deny the request to allow the writer to practice massage therapy prior to reinstatement of the license.

2) Kristie Thomas – Request for Approval of Courses

Ms. Nichols motioned, Ms. Clay seconded, and the Board voted unanimously in favor of the motion to notify the writer that the Board denied the request based on Board Rule 348-8-.01. Notify the writer that she may submit a petition for rule variance or waiver for consideration.

Discussion – National Certification Board for Therapeutic Massage & Bodywork (NCBTMB)

1) Approved Provider Disciplinary Actions by State

The Board accepted the correspondence in reference to the list of NCBTMB approved provider disciplinary actions taken by state as information.

2) Certificant Disciplinary Actions by State

The Board accepted the correspondence in reference to the list of NCBTMB certificant disciplinary actions by state as information. Staff is to review the list to determine if any of the certificants are licensed in this state and if so, open a case to discover the reasons actions were taken against them by NCBTMB in order for the Board to determine the next course of action.

3) NCBTMB and FSMTB Joint Statement Regarding C.E. Collaboration

The Board accepted the correspondence regarding continuing education collaboration between NCBTMB and FSMTB as information.

4) School Compliance Report

The Board accepted the correspondence in reference to the school compliance report as information.

Discussion – Senate Bill 367

The Board held a discussion regarding the Justice Reform Bill which will require the Board to ensure that it has considered all information relevant and surrounding the criminal history of an applicant before rendering a decision on licensure to include the type of offense(s), the age the individual was when the offense(s) occurred, the number of offenses, the circumstances surrounding the offense and if the offense or conviction is related to or impact the profession for which they seek licensure. Ms. Price reported that she is aware that the Board already considers these factors but when making decision to deny a license, the Board may need to be certain to articulate for the record within their motion that each factor was considered. She also pointed out the bill limits the amount of information the Board will receive when a criminal background check is conducted and specifies the actions the Board may take when an applicant or licensee is in a pretrial diversion program. She encouraged the Board to review the statute and become familiar with the changes as it was sent to the Governor for his signature on April 1, 2016 and will likely go into effect as of July 1, 2016.

Discussion – Federation of State Massage Therapy Board (FSMTB)

1) Resolution – Amendment to Re-Testing/Re-Examination Policy to include an Extended Wait Period

Ms. Clay motioned, Ms. Nichols seconded, and the Board voted unanimously in favor of the motion to rescind the previous motion to submit a resolution to amend the FSMTB re-testing/re-examination policy to include an extended wait period.

2) Resolution – Amendment to Re-Testing/Re-Examination Policy to limit the number of MBLEx Attempts

Ms. Nichols motioned, Ms. Clay seconded, and the Board voted unanimously in favor of the motion to forward the resolution to limit the number of MBLEx attempts to FSMTB.

3) Resolution – Amend MBLEx Registration Process to include Proof of Graduation from Board Approved Entity

Ms. Clay motioned, Ms. Nichols seconded, and the Board voted unanimously in favor of the motion to forward the resolution to amend the MBLEx registration process to include proof of graduation from a Board approved entity to FSMTB.

Open Records Requests:

1) Andrew Turnage, Georgia State Board of Cosmetology and Barber – RE: Jalinnie, Kasi Spa for Men

Ms. Clay motioned, Ms. Nicholas seconded, and the Board voted unanimously in favor of the motion to approve the release of current and any future records regarding Jalinnie Kasi and Kasi Spa to the Georgia State Board of Cosmetology and Barber.

2) Sandra Richardson, Cobb County Community Development Authority – RE: Jalinnie Kasi, Kasi Spa for Men

Ms. Nichols motioned, Ms. Clay seconded, and the Board voted unanimously in favor of the motion to approve the release of current and any future records regarding Jalinnie Kasi, Kasi Spa for Men as requested to the Cobb County Community Development Authority.

3) Sgt. M. Patire, Atlanta Police Department – RE: Mucahit Turan

Ms. Clay motioned, Ms. Nicholas seconded, and the Board voted unanimously in favor of the motion to ratify the release of records regarding Mucahit Turan per Board Policy D1 to the Atlanta Police Departments requested.

Petition for Rule Waiver Request(s)

1) Clark, Jaren - BR 345-8-.03

The Board tabled a decision regarding the rule waiver request submitted by Mr. Clark for further discussion in Executive Session.

2) Hood-Brannos, Alicia - BR 345-4-.02

Ms. Clay motioned, Ms. Nichols seconded and the Board voted unanimously in favor of the motion to deny the petition for waiver of Board Rule 345-4-.02 due to insufficient evidence to substantiate a hardship.

3) Phillips, Randy - BR 345-4-.02

Ms. Nichols motioned, Ms. Clay seconded and the Board voted unanimously in favor of the motion to deny the petition for waiver of Board Rule 345-4-.02 due to insufficient evidence to substantiate a hardship and refer Mr. Phillips to the statute regarding inactive status.

Discussion: Board Rule 345-6-.01 Professional and Unprofessional Conduct

Ms. Clay motioned, Ms. Nichols seconded, and the Board voted unanimously in favor of the motion to refer Board Rule 345-6-.01 as presented to the Attorney General's Office for a memorandum of authority and if no objections noted, vote to post.

Rule 345-6-.01 Professional and Unprofessional Conduct

(1) Georgia Licensed Massage Therapists shall:

(a) Comply with recognized professional standards for the practice of massage therapy and client quality of care.

(b) Represent professional qualifications truthfully and accurately, including education and professional affiliations, and provide only those services that the practitioner is qualified by education, experience, and skill to perform within recognized professional standards for the practice of massage therapy.

(c) Accurately inform clients, other health care practitioners, and the public about the scope and limitations of the practice of massage therapy, including the limitations of and contraindications for massage therapy.

(d) Refer clients to appropriate health professionals when treatment needed by the client is beyond the scope of massage therapy practice according to recognized professional standards.

(e) Perform massage therapy only after the client has given written informed and voluntary consent that is signed by the client or, if the client is a minor, signed by the client's guardian, parent, or authorized third party.

(f) Immediately comply with the client's expressed request to refuse, modify, or terminate the performance of massage therapy, regardless of any prior consent.

(g) Provide draping and treatment consistent with client safety, comfort, and privacy in compliance with recognized professional standards of massage therapy practice.

(h) Refuse to treat any person or part of the body if such treatment is not lawful, does not comply with recognized professional standards of massage therapy practice, or is not in the best interest of the client.

(i) Not violate client boundaries regarding privacy, disclosure of personal information, physical exposure, nudity, or sexual activity.

(j) Not accept any gifts, compensation, or benefits that are intended to influence a referral, decision, or treatment that is not within recognized professional standards of massage therapy practice, including treatment that is not in the best interest of the client.

(2) Unprofessional conduct shall also include, but not be limited to, the following:

(a) Practicing massage therapy without a valid license or with an expired license;

(b) Failing to comply with requirements for professional continuing education;

(c) Performing any act which knowingly aids, assists, procures, advises or encourages an unlicensed person to practice message therapy.

(d) Failing to display a massage therapist's license certificate issued by the Board, or a photocopy thereof, in an appropriate and public manner easily and readily available for public view at each location the licensee practices;

(e) Violation of, or non compliance with, any of the following:

1. The Georgia Massage Therapy Practice Act;
 2. Any statutes, ordinances, or rules pertaining to the practice of massage therapy;
 3. Rules promulgated by the Georgia Board of Massage Therapy;
 4. Any Consent Agreement entered into with the Georgia Board of Massage Therapy or other licensing board or agency;
and
 5. Any Order issued by the Georgia Board of Massage Therapy or other licensing board or agency.
- (f) Failing to maintain appropriate records and to safeguard the confidentiality of records regarding clients, their treatment, their personal information, and client referral to other medical or health professionals, unless disclosure or release of such confidential information is requested by the client in writing or is required by law.
- (g) Falsifying, altering, destroying, or changing records in contemplation of an investigation by the board, a governmental office, regulating agency, or lawsuit filed by a patient.
- (h) Using improper or unfair measures or false information to draw patronage from the practice of another massage therapy licensee.
- (i) Initiating or engaging or in any sexual conduct, sexual activities, or sexualizing behavior involving a client or pertaining to the practice of massage therapy.
- (j) Knowingly making misleading, deceptive, untrue or fraudulent representations in an application for licensure, reinstatement, or licensure renewal filed with the board, in a document pertaining to the practice of massage therapy, the filing of any insurance claim, or in any document in connection therewith.
- (k) Discriminating against clients on the basis of gender, age, race, national origin, religion, disability, or sexual preference.
- (l) Engage in the trafficking of persons for labor or sexual servitude as codified in O.C.G.A. § 16-5-46.

Cite as Ga. Comp. R. & Regs. R. 345-6-.01

Authority: O.C.G.A. Secs. [43-1-10](#), [43-1-19](#), [43-1-24](#), [43-1-25](#), [43-24A-2](#), [43-24A-3](#), [43-24A-7](#), [43-24A-8](#), [43-24A-10](#), [43-24A-13](#), [43-24A-14](#), [43-24A-15](#), [43-24A-17](#), [43-24A-20](#), [43-24A-22](#), [50-13-3](#).

History. Original Rule entitled "Licensure by Reciprocity" adopted. F. July 5, 2007; eff. July 25, 2007.

Repealed: F. Sept. 9, 2008; eff. Sept. 29, 2008.

Amended: New Rule entitled "Professional and Unprofessional Conduct" adopted. F. Nov. 3, 2010; eff. Nov. 23, 2010.

The Board discussed the economic impact of Board Rule 345-6-.01 upon the licensee. Ms. Nichols motioned, Ms. Clay seconded, and the Board voted unanimously in favor of the motion that the formulation and adoption of this rule does not impose excessive regulatory cost on any licensee and any cost to comply with the proposed rule cannot be reduced by a less expensive alternative.

Ms. Nichols motioned, Ms. Clay seconded, and the Board voted unanimously in favor of the motion that it is not legal or feasible to meet the objectives of O.C.G.A. §§ 43-1-25, 43-24A-19(2), and 43-24A-3(4) to adopt or implement differing actions for businesses as listed in O.C.G.A. § 50-13-4(3)(A), (B), (C), and (D). The formulation and adoption of these rules will impact every licensee in the same manner and each licensee is independently licensed in the field of Massage Therapy.

Discussion: Educating the City Governments and Public

The Board held a discussion regarding amendments to the fine scale for aiding and abetting unlicensed practice, human trafficking violations and holding the owner or landlord of the location responsible for these violations. Ms. Price shared with the Board that she has attended some town hall meetings and recently attended the Georgia Association of Business Tax Officials Conference, Cordele, Georgia at Lake Blackshear with Lisa Durden, Division Director and Andrew Turnage, Executive Director of the Board of Cosmetology. She reported that the conference was attended by business tax officials and investigators from all over the state and they provided them with the statutes, rules, and

policies relating to Massage Therapy. Ms. Price mentioned that they are seeking to educate the public as well as city officials in relation to Massage Therapy rules and regulations and suggested that O.C.G.A. §36-60-6(c) which is the statute concerning the issuance of business licenses for a profession or business that requires a license under Title 43 be added to the Georgia Board of Massage Therapy's homepage. Ms. Clay motioned, Ms. Nichols seconded, and the Board voted unanimously in favor of the motion to add the language in that statute to the Georgia Board of Massage Therapy homepage.

Executive Director's Report – A. Price

Executive Director's report presented the Board with statistical data relevant to the processing of applications and complaints/compliance, the registrants for the CE Tracking System, and the Board's statutory authority to proceed with disciplinary actions against those who do not use CE Broker. Ms. Price's report presented the Board with an update on the status of the pre-filled bills that were tracked during the Georgia General Assembly, and a reminder that each Board Member was to have met the Annual Affidavit and Personal Financial Disclosure requirements by January 31, 2016 and if they have not done so to complete the task as soon as possible. The Board accepted the report as presented.

Discussion - House Bill 821

Ms. Nichols motioned, Mr. Knowles seconded, and the Board voted unanimously in favor of the motion to assign Ms. Clay to draft or revise a rule implementing a process by which military spouses and transitioning service members may qualify for temporary licenses, licenses by endorsement, or expedited license.

Ethics and Boundaries Assessment Services, LLC Workshop Report – P. Nichols

Ms. Nichols provided a verbal report from the EBAS Agency Orientation Workshop that she recently attended. Participants were given the opportunity to get a better understanding of the exam process through hands on experience from the initial application process, grading scale, and the deliverance of scores and results. Ms. Nichols expressed her concern with the Board not currently being able to test the ethical understanding of their licensees as this exam would require individuals to demonstrate an understanding of appropriate protocols and judgements relevant to their profession. Ms. Nichols would like for the Board to consider using EBAS as an additional option in the future for disciplinary actions for licensees. The Board accepted the verbal report as presented.

Correspondence to the Secretary of State regarding Statutory Changes and Current Issues

Ms. Clay motioned, Mr. Knowles seconded, and the Board voted unanimously in favor of the motion to forward a copy of the letter, drafted by Mr. Knowles with input from the Board, to Secretary of State Brian Kemp regarding the Georgia Board of Massage Therapy's request for his support on making statutory changes to the Georgia Massage Therapy Practice Act to Ms. Nichol's for final review; and if Ms. Nichols is in agreement with the requested changes, forward the letter and amendments to Secretary Kemp.

Board Chair's Report – C. Knowles

No report presented.

Ms. Nichols motioned, Ms. Clay seconded, and the Board voted to enter into Executive Session in accordance with O.C.G.A. § 43-1-2(k) (1) (2), O.C.G.A. § 50-14-2(1), O.C.G.A. § 43-1-2(k) (4), O.C.G.A. § 43-1-19(h) (2) & (4) to receive and review information pertaining to applications. Voting in favor of the motion were those present who included Board members: Mr. Knowles, Ms. Clay, and Ms. Nichols.

At the conclusion of Executive Session on Friday, April 29, 2016 Mr. Knowles declared the meeting to be "open" pursuant to the Open and Public Meeting Act O.C.G.A. § 50-14-1 et seq. No votes were taken during Executive Session.

OPEN SESSION

Petition for Rule Waiver Request(s)

1) Clark, Jaren - BR 345-8-.03

Ms. Clay motioned, Ms. Nichols seconded and the Board voted unanimously in favor of the motion to deny the petition for waiver of Board Rule 345-8-.03 due to insufficient evidence to substantiate a hardship.

Scheduled Board Appointments

Ms. Nichols motioned, Ms. Clay seconded, and the Board voted unanimously in favor of the motion to accept the following recommendations made in Executive Session:

- 1) Applicant M.B. Uphold the previous motion to deny.
- 2) Applicant M.C. Table a decision pending receipt of Physical Therapy transcripts from the school.
- 3) Applicant I.G. Rescind the previous motion and issue the license upon receipt of unexpired, unencumbered

- NCBTMB assigned school code certificate.
- 4) Applicant M.H. Uphold the previous motion to deny.
- 5) Applicant N.L. Uphold the previous motion to deny.
- 6) Applicant Q.W. Uphold the previous motion to deny.
- 7) Applicant M.S. Uphold the previous motion to deny.
- 8) Applicant T.Y. Rescind the previous motion and issue the license upon receipt of unexpired, unencumbered NCBTMB assigned school code certificate.
- 9) Applicant J.X. Uphold the previous motion to deny.

Executive Session Minutes:

1) March 4, 2016 Board Meeting Executive Minutes

Ms. Clay motioned, Ms. Nichols seconded, and the Board voted unanimously in favor of the motion to approve the March 4, 2016 executive session minutes as presented.

Attorney General’s Report- J. Scott Forbes

Ms. Clay motioned, Ms. Nichols seconded and the Board voted unanimously in favor of the motion to accept the Attorney General’s report as presented.

Cognizant’s Report – J. Clay

Ms. Nichols motioned, Mr. Knowles seconded, and the Board voted unanimously in favor of the motion to accept the following recommendations made in Executive Session:

- MT160086 Refer to Attorney General’s Office for a Public Consent Order to run concurrent with criminal probation with quarterly reporting by the respondent and employer and reporting from the probation officer.
- MT150081 Table a decision pending further investigation.
- MT160016 Close the case with no action.
- MT160032 Refer to Attorney General’s Office for a cease and desist hearing on the respondent C.C.
- MT160032 Withdraw recognition status from the massage therapy educational program based upon aiding and abetting of unlicensed practice.
- MT160035 Accept the cease and desist and close the case.
- MT160067 Close the case with no action.
- MT160068 Table a decision pending further investigation.
- MT160076 Close the case with no action.
- MT160081 Close the case with no action.

Board Order Ratification List

Mr. Knowles motioned, Ms. Nichols seconded, and the Board voted unanimously in favor of the motion to ratify the list of Private Consent Agreements issued in accordance with Board rules and policies between meetings as presented.

Legal Memo(s) to the Board

Ms. Nichols motioned, Ms. Clay seconded, and the Board voted unanimously in favor of the motion to accept the following recommendations made in Executive Session

- 1) D.D.E. Rescind the previous motion and issue the license.

Applications for Board Review

Ms. Clay motioned, Ms. Nichols seconded, and the Board voted unanimously in favor of the motion to accept the following recommendations made in Executive Session:

Initial Applications:

- 1) D.K.C. Issue the license.
- 2) J.L.C. Deny licensure based on attendance to a school with no NCBTMB School Provider Number in accordance with Board Rule 345-8-.03.
- 3) B.M.J. Deny licensure based on failure to meet education requirements in accordance with 345-8-.01 and refer to the file to NCBTMB.
- 4) D.E.L. Issue the license.

Reinstatement Applications:

- 5) K.A.S. Refer to Legal Services for Private Consent Agreement for Reinstatement of Licensure with a fine of \$500 for unlicensed practice from February 21, 2015 to February 4, 2016.

Transcripts Requests:

- 6) E.H.R. Approve transcript request.

Transcripts Review:

- 7) Y.C. Deny licensure based on failure to meet requirements as codified in O.C.G.A. § 43-24A-8(7) as a result of an invalidation of MBLEx scores.
- 8) K.M.G. Deny licensure, does not meet educational requirements in accordance with 345-8-01 as a result of attending an educational program with a revoked NCBTMB assigned school code.
- 9) L.L. Deny licensure, does not meet education requirements in accordance with Board Rule 345-8-.01.

Additional Applications

Reinstatement Applications

- 10) C.B. Deny licensure, does not meet continuing education requirements in accordance with Board Rule 345-4-.02.
- 11) K.H. Deny licensure, the applicant failed to submit all required documentation before the application expired.
- 12) B.H. Approve for reinstatement of licensure.
- 13) D.M. Refer to Legal Services for Private Consent Agreement for Reinstatement of Licensure with a fine in accordance with the fine scale for unlicensed practice from November 2014 to February 4, 2016 and refer respondent Z.M. to the Attorney General's office for aiding and abetting unlicensed practice.

Transcripts Review:

- 14) M.L. Approve for licensure.
- 15) O.K. Approve for licensure.
- 16) F.P. Deny licensure, does not meet educational requirements in accordance with 345-8-01 as a result of attending an educational program with a revoked NCBTMB assigned school code.
- 17) B.Y. Den licensure, does not meet educational requirements in accordance with O.C.G.A. § 43- 24A-8(6).

Miscellaneous Discussions

1) Federation of State Massage Therapy Board (FSMTB) Annual Meeting

Mr. Knowles motioned, Ms. Clay seconded, and the Board voted unanimously in favor of the motion to send Ms. Pam Nichols to the annual meeting as the Board's delegate.

Education Report – C. Knowles

1) Georgia Christian University

Ms. Nichols motioned, Ms. Clay seconded, and the Board voted unanimously in favor of the motion to grant recognition status; however, the program must submit documentation to the Board that the program's NPEC authorization has been renewed prior to the expiration date of May 31, 2016. If documentation has not been the program will be unrecognized effective June 1, 2016.

2) Ogeechee Technical College

Ms. Nichols motioned, Ms. Clay seconded, and the Board voted unanimously in favor of the motion to table a decision pending receipt of additional information to include the following:

- Documentation which reflects the conversion of credit hours to clock hours;
- Clarify within the catalog and/or the student handbook that in order to meet continuing education requirements, a licensed individual is required to obtain 12 hours of hands-on coursework that is within the scope of practice of massage therapy in the state of Georgia;
- A copy of the current, unencumbered NPEC Certificate of Authorization or Petition for Rule Variance or Waiver for the Board to consider;
- Clear and concise documentation which reflects that the program requires that each student have a minimum grade of 70% and the student have a minimum attendance of 70% in order to receive credit/hours for each course;
- Amend the course description to reflect the current national examination requirements which is the MBLEx rather than any tests previously offered by NCBTMB;
- Clarify start and ending dates of a cohort and the cap on the number of students per class and/or cohort. Please note that if a student may enter the program into a current class in any semester, your catalog and student handbook will need to reflect a rolling schedule and the program must be able to document that there is enough qualified faculty available for instruction.

3) Sedona School of Massage

Ms. Nichols motioned, Ms. Clay seconded, and the Board voted unanimously in favor of the motion to table a decision pending receipt of proof of a current, unencumbered NCBTMB school provider code.

4) Everest Norcross

Ms. Nichols motioned, Ms. Clay seconded, and the Board voted unanimously in favor of the motion to notify the program that they must reapply in accordance to Board Rule 345-8-.03 based on the new program director.

Adjournment With no further business to be discussed, the meeting was adjourned at 3:30p.m.

Minutes recorded by:

Tamara Elliott, Board Support Specialist

Minutes reviewed and edited by:

Kathy Osier, Licensing Supervisor & Adrienne Price, Executive Director

Minutes approved on:

June 24, 2016

CRAIG KNOWLES
BOARD CHAIR

ADRIENNE PRICE
EXECUTIVE DIRECTOR